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PO Box 2348
Santa Fe, NM
87504-2348

June 10, 2011

Mr. Mike Evans, CEO
OptumHealth New Mexico
8801 Horizon Blvd., NE, Suite 260
Albuquerque, New Mexico 87113

Re: OptumHealth New Mexico's Article 15.3 Dispute of Sanction-Clinical Triggers

Dear Mr. Evans:

As Co-Chairs of the New Mexico Interagency Behavioral Health Purchasing Collaborative (Collaborative), we have reviewed OptumHealth New Mexico's (OHNM) May 17, 2011 written documentation and subsequent attachments, as well as, the oral testimony given by your staff and attorneys regarding the sanction imposed on OHNM on February 16, 2011 and later upheld by the Collaborative on March 24, 2011.

The Co-Chairs find, as stated in the March 24, 2011 letter to you from Linda Roebuck Homer, CEO of the Collaborative, that OHNM: did not adopt guidelines on clinical triggers for Behavioral Management Skills (BMS) and Psychosocial Rehabilitation (PSR) services in consultation with contracting health care professionals or network providers; failed to provide the requisite notice and to obtain the requisite approval from the Collaborative before implementing the clinical triggers for BMS and PSR services; and created a significant change in the behavioral health system by imposing clinical triggers for BMS and PSR services.

Furthermore, the Co-Chairs find that there was insufficient evidence to substantiate that the clinical triggers imposed by OHNM for BMS and PSR services were, in fact, implemented in order to identify claims for prepayment review, as stated in your May 17, 2011 written evidence submitted.

However, the Co-Chairs do appreciate the fact that OHNM has modified its practice of clinical triggers for BMS and PSR services by replacing the trigger system with a prospective prior authorization process. This new process was conditionally approved by Ms. Roebuck Homer on April 7, 2011.

In addition, it is our understanding from OHNM's May 17, 2011 written evidence that, of the approximate 3000 claims in question during the time the clinical triggers for BMS and PSR were imposed (January 1, 2011 to March 31, 2011), OHNM has approved payment for approximately 60 percent of the reconsidered claims. OHNM is arguing that "[d]enial of payment is being upheld by an approved licensed clinician for 40 % of those units." (See May 17, 2011 Letter to Secretary Squier and Secretary Torres from the Barnett Law Firm, P.A. Re: *OptumHealth New Mexico's Article 15.3 Dispute of Sanction - Clinical Trigger*, page 5).

Based on this information given to the Co-Chairs by OHNM, the following is the final decision of the Co-Chairs regarding this matter:

OHNM will ensure provider payment of the approximately 60 percent of BMS and PSR claims (between January 1, 2011 and March 31, 2011) already reconsidered and approved by no later than June 30, 2011; and

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OHNM will work with the New Mexico Medical Review Association (NMMRA) to conduct a re-review of the approximately 40 percent of BMS and PSR denied claims (between January 1, 2011 and March 31, 2011) to determine if in fact those claims constitute "medically unnecessary services" (See May 17 OHNM Letter to Secretary Squier and Secretary Torres from the Barnett Law Firm, P.A. *Re: OptumHealth New Mexico's Article 15.3 Dispute of Sanction-Clinical Trigger*, page 5). The NMMRA is an independent review organization with the knowledge and expertise to conduct an independent and objective re-review of the claims that are still in question. OHNM will provide to the NMMRA all documentation necessary to do a re-review of denied claims by July 1, 2011. The NMMRA will have 90 business days after the date the documentation is submitted by OHNM to conduct its re-review. After the re-review is complete, the NMMRA will present its findings to both OHNM and the Collaborative. The re-review findings will be considered a final decision and outline clearly which of the denied claims are found medically unnecessary and which are not, and should be paid by OHNM. All denied claims found to be medically necessary by the NMMRA will be paid by OHNM.

The intent of asking the NMMRA to do an independent review of the remaining 40 percent of denied claims is to understand the nature of OHNM's argument that the clinical trigger was initiated because of overutilization of the BMS and PSR services, and a prepayment review was necessary to prevent "substantial payments for non-covered services under the contract...." (May 17, 2001 Letter to Secretary Squier and Secretary Torres, Barnett Law Firm, P.A., *Re: OptumHealth New Mexico's Article 15.3 Dispute of Sanction-Clinical Trigger*, Page 2). The Co-Chairs do not expect, and certainly do not want, OHNM to pay for services that have been fairly and appropriately deemed not medically necessary. The NMMRA will assist the State and the Collaborative in identifying which claims fall into this category, and which claims may not.

The Co-Chairs believe this is a reasonable and fair request of OHNM in order to resolve this matter.

Sincerely,



Secretary Sidone Squier
Human Services Department
Co-Chair, New Mexico Interagency
Behavioral Health Purchasing Collaborative



Secretary Catherine Torres
Department of Health
Co-Chair, New Mexico Interagency
Behavioral Health Purchasing Collaborative